
By: **Delegates Gordon, Hixson, Goodwin, Healey, Heller, Kaiser, and Ross**
Introduced and read first time: February 9, 2004
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Tax Incentives and Benefits - Credits and Subtraction Modifications**

3 FOR the purpose of repealing certain credits allowed against certain State taxes;
4 altering certain tax benefits provided under law by allowing income tax
5 subtraction modifications in certain amounts under certain circumstances for
6 purposes of determining Maryland taxable income instead of allowing credits
7 against income tax liability; providing that this Act does not affect certain tax
8 credits claimed on or after a certain date by a person qualifying for the credit
9 before a certain date; providing for the application of this Act; and generally
10 relating to tax incentives and benefits under Maryland taxes.

11 BY repealing

12 Article - Insurance
13 Section 6-105 through 6-105.2 and 6-114 through 6-120
14 Annotated Code of Maryland
15 (2003 Replacement Volume)

16 BY repealing

17 Article - Tax - General
18 Section 8-213 through 8-221, 8-406(b), 8-410 through 8-413, 8-415, 8-416,
19 10-205(b) and (i), 10-306(b), 10-704.3, 10-704.5, 10-704.7, 10-704.10,
20 10-710, and 10-715
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 2003 Supplement)

23 BY renumbering

24 Article - Tax - General
25 Section 10-205(c) through (h), 10-702, 10-704.1, 10-704.4, 10-704.6, 10-704.8,
26 10-704.9, 10-707, 10-711, 10-714, and 10-717 through 10-724,
27 respectively
28 to be Section 10-205(b) through (g), 10-226, 10-227, 10-228, 10-230, 10-231,
29 10-232, 10-234, 10-236, 10-237, and 10-239 through 10-246, respectively
30 Annotated Code of Maryland

- 1 (1997 Replacement Volume and 2003 Supplement)
- 2 BY repealing and reenacting, with amendments,
3 Article 83A - Department of Business and Economic Development
4 Section 5-404(a)(2) and (b)(3)(i), 5-1101(d) and (f)(1)(iii), 5-1102, 5-1103, and
5 5-1501(a)(6)(iii), (7)(v), and (12)(ii) and (b) through (f)
6 Annotated Code of Maryland
7 (2003 Replacement Volume)
- 8 BY repealing
9 Article 83A - Department of Business and Economic Development
10 Section 5-1501(g) and (h)
11 Annotated Code of Maryland
12 (2003 Replacement Volume)
- 13 BY repealing and reenacting, with amendments,
14 Article 83B - Department of Housing and Community Development
15 Section 4-701(c), 4-704, and 4-705(c)(2) through (4)
16 Annotated Code of Maryland
17 (2003 Replacement Volume)
- 18 BY repealing and reenacting, with amendments,
19 Article 88A - Department of Human Resources
20 Section 54
21 Annotated Code of Maryland
22 (2003 Replacement Volume)
- 23 BY repealing and reenacting, with amendments,
24 Article - Education
25 Section 21-309 and 21-501(b)(5) and (c) through (e)
26 Annotated Code of Maryland
27 (2001 Replacement Volume and 2003 Supplement)
- 28 BY repealing and reenacting, with amendments,
29 Article - Environment
30 Section 2-901(b) and (c)
31 Annotated Code of Maryland
32 (1996 Replacement Volume and 2003 Supplement)
- 33 BY repealing
34 Article - Environment
35 Section 2-901(d)
36 Annotated Code of Maryland

- 1 (1996 Replacement Volume and 2003 Supplement)
- 2 BY repealing and reenacting, with amendments,
3 Article - Labor and Employment
4 Section 11-702(c), 11-704, and 11-705
5 Annotated Code of Maryland
6 (1999 Replacement Volume and 2003 Supplement)
- 7 BY repealing and reenacting, with amendments,
8 Article - Tax - Property
9 Section 9-230(b)(2), (c)(3), (d)(5), and (i) through (n)
10 Annotated Code of Maryland
11 (2001 Replacement Volume and 2003 Supplement)
- 12 BY repealing
13 Article - Tax - Property
14 Section 9-230(e) through (h)
15 Annotated Code of Maryland
16 (2001 Replacement Volume and 2003 Supplement)
- 17 BY adding to
18 Article - Tax - General
19 Section 10-208(a-1), 10-229, 10-233, 10-235, 10-238, 10-306(b), and
20 10-308(a-1)
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 2003 Supplement)
- 23 BY repealing and reenacting, with amendments,
24 Article - Tax - General
25 Section 10-218(b), 10-809, and 10-812
26 Annotated Code of Maryland
27 (1997 Replacement Volume and 2003 Supplement)
- 28 BY repealing and reenacting, with amendments,
29 Article - Tax - General
30 Section 10-226(b) through (e), 10-227(b) and (c), 10-228, 10-230, 10-231,
31 10-232, 10-234, 10-236, 10-237, 10-239, 10-240, 10-241(b), (c), (e), and
32 (f), 10-242(b), 10-243(b) and (f), 10-244(a)(7) and (b) through (k), 10-245,
33 and 10-246 to be under the new part "Part V. Additional Adjustments to
34 Determine Maryland Taxable Income"
35 Annotated Code of Maryland
36 (1997 Replacement Volume and 2003 Supplement)
37 (As enacted by Section 3 of this Act)

1 BY repealing
2 Article - Tax - General
3 Section 10-226(f) and (g), 10-227(d), 10-241(d), 10-242(c), and 10-243(c)
4 through (e)
5 Annotated Code of Maryland
6 (1997 Replacement Volume and 2003 Supplement)
7 (As enacted by Section 3 of this Act)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That Section(s) 6-105 through 6-105.2 and 6-114 through 6-120 of
10 Article - Insurance of the Annotated Code of Maryland be repealed.

11 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8-213 through
12 8-221, 8-406(b), 8-410 through 8-413, 8-415, 8-416, 10-205(b) and (i), 10-306(b),
13 10-704.3, 10-704.5, 10-704.7, 10-704.10, 10-710, and 10-715 of Article - Tax -
14 General of the Annotated Code of Maryland be repealed.

15 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 10-205(c)
16 through (h), 10-702, 10-704.1, 10-704.4, 10-704.6, 10-704.8, 10-704.9, 10-707,
17 10-711, 10-714, and 10-717 through 10-724, respectively, of Article - Tax - General
18 of the Annotated Code of Maryland be renumbered to be Section(s) 10-205(b) through
19 (g), 10-226, 10-227, 10-228, 10-230, 10-231, 10-232, 10-234, 10-236, 10-237, and
20 10-239 through 10-246, respectively.

21 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
22 read as follows:

23 **Article 83A - Department of Business and Economic Development**

24 5-404.

25 (a) The following incentives and initiatives shall be available to business
26 entities to the extent provided for in this section:

27 (2) The income tax [credits] BENEFITS set forth in § 10-702 of the Tax -
28 General Article;

29 (b) Any business entity moving into or locating within an enterprise zone on or
30 after the date on which the enterprise zone is designated pursuant to § 5-402 of this
31 subtitle may benefit from the incentives and initiatives set forth in this section, if:

32 (3) (i) The business entity creates new or additional jobs or makes a
33 capital investment in order to qualify for the property tax credit under § 9-103 of the
34 Tax - Property Article and the income tax [credits] BENEFITS under § 10-702 of the
35 Tax - General Article; and

1 5-1101.

2 (d) "[Credit] BENEFIT year" means the taxable year in which a qualified
3 business entity claims the [credit] SUBTRACTION MODIFICATION allowed under this
4 subtitle.

5 (f) (1) "Qualified business entity" means a person conducting or operating a
6 trade or business in Maryland who:

7 (iii) Is certified by the Secretary under § 5-1102(b) of this subtitle as
8 qualifying for the tax [credit] BENEFIT under this subtitle.

9 5-1102.

10 (a) It is the intent of the General Assembly that the job creation tax [credits]
11 BENEFITS authorized under this subtitle are for the purpose of increasing the number
12 of new jobs in the State by encouraging the expansion of existing private sector
13 enterprises and the establishment or attraction of new private sector enterprises.

14 (b) (1) (i) The Secretary shall certify a person as a qualified business
15 entity eligible for the tax [credit] BENEFIT under this subtitle if the person satisfies
16 the criteria set forth in this section.

17 (ii) A business entity may not be certified as qualifying for the tax
18 [credit] BENEFIT under this subtitle unless the business entity notifies the
19 Department of its intent to seek certification before hiring any qualified employees to
20 fill the qualified positions necessary to satisfy the requirements of paragraph (2)(i) of
21 this subsection for establishing or expanding the business facility on which the
22 [credit] BENEFIT is based.

23 (2) To qualify for the tax [credit] BENEFIT provided under this subtitle,
24 a business entity must establish or expand a business facility in the State that:

25 (i) Results in the creation of:

26 1. At least 60 qualified positions;

27 2. At least 30 qualified positions if the aggregate payroll for
28 the qualified positions is greater than a threshold amount equal to the product of
29 multiplying 60 times the State's average annual salary, as determined by the
30 Department; or

31 3. At least 25 qualified positions if the business facility
32 established or expanded by the business entity is located in a State priority funding
33 area; and

34 (ii) Is primarily engaged in one or more of the following:

35 1. Manufacturing or mining;

36 2. Transportation or communications;

1 (2) The credit under this section may not be carried back to a preceding
2 taxable year.]

3 [(e)] (D) (1) If, during any of the 3 years succeeding the [credit] BENEFIT
4 year, the number of qualified positions of the qualifying business entity falls more
5 than 5% below the average number of qualified positions during the [credit]
6 BENEFIT year on which the [credit] SUBTRACTION MODIFICATION was computed,
7 the [credit] SUBTRACTION MODIFICATION shall be recaptured as follows:

8 (i) The [credit] SUBTRACTION MODIFICATION shall be
9 recomputed to reduce the [credit] SUBTRACTION MODIFICATION by the percentage
10 reduction of the number of qualified employees;

11 (ii) The recomputed [credit] SUBTRACTION MODIFICATION shall
12 be subtracted from the amount of [credit] SUBTRACTION MODIFICATION previously
13 allowed; and

14 (iii) The qualifying business entity shall [pay] ADD the difference
15 [as taxes payable to the State] TO MARYLAND TAXABLE INCOME for the taxable year
16 in which the number of qualified positions falls more than 5% below the average
17 number of qualified positions during the [credit] BENEFIT year.

18 (2) If, during any of the 3 years succeeding the [credit] BENEFIT year,
19 the average number of qualified positions falls below the applicable threshold number
20 of positions under subsection (b)(2)(i) of this section, all [credits] BENEFITS earned
21 shall be recaptured.

22 (3) (i) During the 3 taxable years succeeding the [credit] BENEFIT
23 year, the qualified business entity shall supply information required by the
24 Department in regulation to verify that the business entity is not subject to
25 paragraph (1) or (2) of this subsection.

26 (ii) The Department may require any information required under
27 this paragraph to be verified by an independent auditor selected by the business
28 entity.

29 [(f)] (E) Any information provided to the Comptroller or the appropriate
30 agency by a qualified business entity in connection with eligibility for a credit allowed
31 under this section shall be shared by the Comptroller or the appropriate agency with
32 the Department of Business and Economic Development and shall be subject to the
33 confidentiality requirements established by statutes or regulations applicable to the
34 Comptroller or the appropriate agency.

35 [(g)] (F) (1) Subject to the provisions of this subsection, the Secretary shall
36 adopt regulations to carry out the provisions of this subtitle.

37 (2) The Comptroller shall adopt regulations to provide for the
38 computation[, carryover,] and recapture of the [credit] SUBTRACTION
39 MODIFICATION under [§ 10-704.4] § 10-228 of the Tax - General Article.

1 [(3) The Department of Assessments and Taxation shall adopt
2 regulations to provide for the computation, carryover, and recapture of the credit
3 under §§ 8-214 and 8-411 of the Tax - General Article.

4 (4) The Maryland Insurance Commissioner shall adopt regulations to
5 provide for the computation, carryover, and recapture of the credit under § 6-114 of
6 the Insurance Article.]

7 [(h)] (G) The Department shall report to the Governor and, subject to § 2-1246
8 of the State Government Article, to the General Assembly by December 31 of each
9 year on the business entities certified as eligible for tax [credits] BENEFITS in the
10 preceding fiscal year.

11 5-1103.

12 (a) Subject to the provisions of this section, the provisions of this subtitle and
13 the tax [credit] BENEFIT authorized under this subtitle shall terminate as of
14 January 1, 2007.

15 (b) (1) The tax [credits] BENEFIT authorized under this subtitle:

16 (i) May be claimed only for qualified positions at a newly
17 established or expanded facility that commences operations before January 1, 2006;
18 and

19 (ii) May not be earned for any [credit] BENEFIT year beginning on
20 or after January 1, 2007.

21 (2) Subject to the limitations under this subtitle, for taxable years
22 beginning on or after January 1, 2007, tax [credits] BENEFITS earned in [credit]
23 BENEFIT years beginning before January 1, 2007, may be allowed ratably over a
24 2-year period[, may be carried forward,] and are subject to recapture as provided in
25 § 5-1102 of this subtitle.

26 5-1501.

27 (a) (6) (iii) "Eligible project costs" does not include any costs incurred by a
28 business entity before notifying the Department of its intent to seek certification as
29 qualifying for the tax [credit] BENEFIT under this section.

30 (7) "Qualified business entity" means a person that:

31 (v) Is certified by the Secretary under subsection (e) of this section
32 as qualifying for the tax [credits] BENEFITS under this section.

33 (12) (ii) "Eligible start-up costs" does not include any costs incurred by
34 a business entity before notifying the Department of its intent to seek certification as
35 qualifying for the tax [credit] BENEFIT under this section.

1 (b) (1) A qualified business entity may claim [a tax credit] AN INCOME TAX
2 SUBTRACTION MODIFICATION under this subsection for the costs of an eligible
3 economic development project in a qualified distressed county if the amount of the
4 qualified business entity's total eligible project costs for the eligible economic
5 development project is at least \$500,000.

6 (2) [(i)] Subject to the limitation under subparagraph (ii) of this
7 paragraph, the [credit] SUBTRACTION MODIFICATION allowed under this subsection
8 equals 100% of the eligible project costs for the eligible economic development
9 project[, less the amount of the credit allowed with respect to the project for prior
10 taxable years].

11 [(ii)] Except as provided in paragraphs (4) and (5) of this subsection,
12 the credit allowed under this subsection for any taxable year may not exceed the State
13 tax for the taxable year on the qualified business entity's income generated by or
14 arising out of the project, as determined under paragraph (3) of this subsection.]

15 [(3) (i)] For a qualified business entity other than a person subject to
16 taxation under Title 6 of the Insurance Article, the State tax for the taxable year on
17 the qualified business entity's income generated by or arising out of an eligible
18 economic development project shall equal the difference between:

19 1. The State tax without regard to this section; and
20 2. The State tax on the qualified business entity's Maryland
21 taxable income reduced by the amount of its net income attributable to the eligible
22 economic development project.

23 (ii) 1. If an eligible economic development project is a totally
24 separate facility, net income attributable to the project shall be determined under the
25 separate accounting method reflecting only the gross income, deductions, expenses,
26 gains, and losses that are directly attributable to the facility and overhead expenses
27 apportioned to the facility.

28 2. If the eligible economic development project is an
29 expansion to a previously existing facility:

30 A. Net income attributable to the entire facility shall be
31 determined under the separate accounting method reflecting only the gross income,
32 deductions, expenses, gains, and losses that are directly attributable to the facility
33 and overhead expenses apportioned to the facility; and

34 B. The net income attributable to the eligible economic
35 development project shall be determined by apportioning the separate accounting net
36 income of the entire facility to the eligible economic development project by a formula
37 approved by the Comptroller or the Department of Assessments and Taxation.

38 3. If a qualified business entity can show to the satisfaction
39 of the Comptroller or the Department of Assessments and Taxation that the nature of
40 the operations and activities of the qualified business entity are such that it is not

1 practical to use the separate accounting method to determine the net income from the
2 facility at which the eligible economic development project is located, the qualified
3 business entity shall determine net income from the eligible economic development
4 project using an alternative method approved by the Comptroller or the Department
5 of Assessments and Taxation.

6 (iii) A qualified business entity that is subject to taxation under
7 Title 6 of the Insurance Article may not claim the credit under this subsection for the
8 taxable year in which the project is placed in service or for the first 4 taxable years
9 following the taxable year in which the project is placed in service.

10 (4) If the eligible project costs for the eligible economic development
11 project exceed the State tax on the qualified business entity's income generated by or
12 arising out of the project for the taxable year in which the project is placed in service,
13 the qualified business entity may apply any excess as a credit for succeeding taxable
14 years against the State tax on the qualified business entity's income generated by or
15 arising out of the project until the earlier of:

16 (i) The full amount of the excess is used; or

17 (ii) The expiration of the 14th taxable year following the taxable
18 year in which the project is placed in service.

19 (5) (i) Subject to the limitation under subparagraph (ii) of this
20 paragraph and subject to subsection (h) of this section, for any taxable year after the
21 4th taxable year following the taxable year in which the project is placed in service
22 but before the 15th taxable year following the taxable year in which the project is
23 placed in service:

24 1. A qualified business entity other than a person subject to
25 taxation under Title 6 of the Insurance Article:

26 A. May apply any excess of eligible project costs for the
27 eligible economic development project over the cumulative amount used as a tax
28 credit under this subsection for the taxable year and all prior taxable years as a tax
29 credit against the State tax for the taxable year on the qualified business entity's
30 income other than income generated by or arising out of the project; and

31 B. May claim a refund in the amount, if any, by which the
32 unused excess exceeds the State tax for the taxable year on the qualified business
33 entity's income other than income generated by or arising out of the project; and

34 2. A qualified business entity that is subject to taxation
35 under Title 6 of the Insurance Article:

36 A. May apply any excess of eligible project costs for the
37 eligible economic development project over the cumulative amount used as a tax
38 credit under this subsection for the taxable year and all prior taxable years as a tax
39 credit against the premium tax imposed for the taxable year; and

1 B. May claim a refund in the amount, if any, by which the
2 unused excess exceeds the premium tax for the taxable year.

3 (ii) For any taxable year, the total of the amounts used as a tax
4 credit and claimed as a refund as provided in this paragraph may not exceed the
5 amount of taxes that the qualified business entity is required to withhold for the
6 taxable year from the wages of qualified employees under § 10-908 of the Tax -
7 General Article.]

8 (c) (1) A qualified business entity that locates in a qualified distressed
9 county may claim a [tax credit] SUBTRACTION MODIFICATION in the amount
10 provided in paragraph (2) of this subsection.

11 (2) The [credit] SUBTRACTION MODIFICATION allowed under this
12 subsection for each taxable year equals the lesser of:

13 (i) 100% of the qualified business entity's eligible start-up costs
14 associated with establishing or expanding a business facility in a qualified distressed
15 county[, less the amount of the credit allowed with respect to the project for prior
16 taxable years]; or

17 (ii) The product of multiplying \$10,000 times the number of
18 qualified employees employed at the new or expanded business facility.

19 [(3) If the credit allowed under this subsection for the taxable year in
20 which a qualified business entity locates in a qualified distressed county exceeds the
21 total tax otherwise due from the qualified business entity for that taxable year, the
22 qualified business entity may apply the excess as a credit for succeeding taxable years
23 until the earlier of:

24 (i) The full amount of the excess is used; or

25 (ii) The expiration of the 14th taxable year following the taxable
26 year in which the qualified business entity locates in a qualified distressed county.

27 (4) (i) Subject to the limitation under subparagraph (ii) of this
28 paragraph and subject to subsection (h) of this section, for any taxable year after the
29 4th taxable year following the taxable year in which the qualified business entity
30 locates in a qualified distressed county but before the 15th taxable year following the
31 taxable year in which the qualified business entity locates in a qualified distressed
32 county, the qualified business entity may claim a refund in the amount, if any, by
33 which the qualified business entity's eligible start-up costs exceed the cumulative
34 amount used as a tax credit under this subsection for the taxable year and all prior
35 taxable years.

36 (ii) For any taxable year, the total amount claimed as a refund as
37 provided in this paragraph may not exceed the amount of taxes that the qualified
38 business entity is required to withhold for the taxable year from the wages of
39 qualified employees under § 10-908 of the Tax - General Article.]

1 (d) The Secretary shall adopt regulations to specify criteria and procedures for
2 application and approval of projects for the tax [credit] BENEFIT under this section.

3 (e) (1) A business entity may not be certified as qualifying for the tax
4 [credit] BENEFIT under this section unless the business entity notifies the
5 Department of its intent to seek certification before hiring any qualified employees to
6 fill the qualified positions necessary to satisfy the employment threshold required to
7 qualify for the tax [credit] BENEFIT under subsection (a)(7)(ii) of this section.

8 (2) (i) A business entity may not be certified as qualifying for the tax
9 [credit] BENEFIT under this section if an announcement of intent to establish or
10 expand the business facility was made on or before April 10, 1999.

11 (ii) For purposes of this paragraph, an announcement of intent to
12 establish or expand a business facility includes a press conference or press coverage
13 regarding the project.

14 (3) To be certified as a qualified business entity, a business entity shall
15 submit the following to the Secretary in accordance with regulations adopted by the
16 Secretary:

17 (i) The effective date of the start-up or expansion;

18 (ii) The number of full-time employees prior to the start-up or
19 expansion and the payroll of the existing employees;

20 (iii) The number of qualified positions created, qualified employees
21 hired, and the payroll of those employees; and

22 (iv) Any other information that the Secretary requires by
23 regulation.

24 (4) The Secretary may require any information required under this
25 subsection to be verified by an independent auditor selected by the qualified business
26 entity.

27 (f) A qualified business entity must obtain and submit to the appropriate
28 State agency with the tax return on which the [credit] BENEFIT is claimed,
29 certification from the Secretary that the entity has met the requirements of this
30 section and is eligible for the [credit] BENEFIT.

31 [(g) A refund payable to a qualified business entity under subsection (b)(5) or
32 (c)(4) of this section:

33 (1) Operates to reduce the income tax revenue from corporations if the
34 qualified business entity is a corporation subject to the income tax under Title 10 of
35 the Tax - General Article;

36 (2) Operates to reduce insurance premium tax revenues if the qualified
37 business entity is subject to taxation under Title 6 of the Insurance Article; and

1 (3) Operates to reduce the income tax revenue from individuals if the
2 business entity is:

3 (i) An individual subject to the income tax under Title 10 of the Tax
4 - General Article; or

5 (ii) An organization exempt from taxation under § 501(c)(3) or (4) of
6 the Internal Revenue Code.]

7 [(h) If the pay for the majority of the qualified positions created as a result of
8 the establishment or expansion of a business facility is at least 250% of the federal
9 minimum wage, the provisions of subsections (b)(5) and (c)(4) of this section shall
10 apply beginning with the taxable year after the 2nd taxable year following the
11 taxable year in which the qualified business entity locates in a qualified distressed
12 county.]

13 **Article 83B - Department of Housing and Community Development**

14 4-701.

15 (c) "Business entity" means a person that:

16 (1) Conducts or operates a trade or business in the State; and

17 (2) Is subject to[:

18 (i) The] THE State income tax on individuals or corporations[;

19 (ii) The financial institution franchise tax;

20 (iii) The public service company franchise tax; or

21 (iv) The insurance premiums tax].

22 4-704.

23 (a) [(1)] Except as otherwise provided in this section, a business entity may
24 claim [a tax credit] AN INCOME TAX SUBTRACTION MODIFICATION in the amount
25 determined under subsection (b) of this section for contributions to an approved
26 project.

27 [(2) The same tax credit may not be applied more than once against
28 different taxes by the same taxpayer.]

29 (b) (1) Except as provided in paragraph (2) of this subsection, the [credit]
30 SUBTRACTION MODIFICATION allowed under this section equals [50 percent of the]
31 THE TOTAL amount of contributions that are approved by the Department under
32 subsection (c) of this section made during the taxable year of the business entity.

1 (2) [(i)] The [credit] SUBTRACTION MODIFICATION allowed to a
2 business entity under this section may not exceed[,] \$125,000 for any taxable year of
3 the business entity[, the lesser of:

- 4 1. \$125,000; or
- 5 2. The total amount of tax otherwise payable by the business
6 entity for the taxable year].

7 [(ii)] Any excess credit that would be allowed but for the limitations
8 under subparagraph (i) of this paragraph may be carried over and applied as a credit
9 for succeeding taxable years until the earlier of:

- 10 1. The full amount of the excess is used; or
- 11 2. The expiration of the fifth taxable year after the taxable
12 year in which the contribution was made.]

13 (c) (1) The [credit] SUBTRACTION MODIFICATION allowed under this
14 section may not be allowed unless the business entity has applied for and received
15 approval under this subsection by the Department for each contribution as to which
16 the [credit] SUBTRACTION MODIFICATION is claimed.

17 (2) Each application for approval of a contribution shall contain:

18 (i) The name of the approved project to which the contribution is to
19 be made;

20 (ii) The amount of the contribution; and

21 (iii) 1. Except as provided in subitem 2 of this item, a
22 certification by an independent and unrelated third party as to the value of any
23 nonmonetary contribution included; or

24 2. If the contribution is of new goods, an invoice or receipt
25 provided by the business entity as certification of the contribution's net cost to the
26 business entity.

27 (3) The Department may not approve an application for approval of a
28 contribution if it determines that:

29 (i) The maximum amount of contributions eligible for the [tax
30 credit] SUBTRACTION MODIFICATION for that project for the fiscal year will be
31 exceeded by the sum of:

- 32 1. The amount of the proposed contribution; and
- 33 2. The total amount of contributions previously approved to
34 that project for the fiscal year; or

1 (ii) The applicant has overstated the value of any nonmonetary
2 contribution included.

3 (4) By January 31 of each year, the Department shall report to the
4 Department of Assessments and Taxation, the Comptroller, and the Maryland
5 Insurance Administration the contributions that the Department has approved under
6 this section in the preceding calendar year.

7 4-705.

8 (c) (2) Each approval of a proposal:

9 (i) Shall be in writing; and

10 (ii) Shall state the maximum amount of contributions to the
11 approved project eligible for the tax [credits] BENEFITS provided under § 4-704 of
12 this subtitle.

13 (3) The sum of contributions eligible for the tax [credits] BENEFITS
14 provided under § 4-704 of this subtitle for all projects approved for each fiscal year
15 may not exceed \$2,000,000.

16 (4) In approving or disapproving a proposal, and in determining the
17 maximum amount of contributions to an approved project that will be eligible for the
18 tax [credits] BENEFITS provided under § 4-704 of this subtitle, the Department:

19 (i) Shall consider:

20 1. The need for the project in relation to the need for other
21 projects proposed;

22 2. The anticipated benefit to the priority funding area;

23 3. The capacity of the applicant to raise funds for the project;

24 4. The readiness of the applicant to proceed with the project;

25 5. The ability of the applicant to complete the project as
26 proposed;

27 6. Geographic distribution of projects; and

28 7. Any other relevant factors;

29 (ii) May give preference to a proposal that benefits a designated
30 revitalization area;

31 (iii) May request data and assistance from other units of the State;
32 and

1 (iv) Shall apportion among the approved projects the limit imposed
2 under paragraph (3) of this subsection on the sum of contributions eligible for tax
3 [credits] BENEFITS for the fiscal year.

4 **Article 88A - Department of Human Resources**

5 54.

6 (a) (1) In this section the following words have the meanings indicated.

7 (2) "Business entity" means:

8 (i) A person conducting or operating a trade or business in
9 Maryland; or

10 (ii) An organization operating in Maryland that is exempt from
11 taxation under § 501(c)(3) or (4) of the Internal Revenue Code.

12 (3) "Qualified child care expenses" means State regulated child care
13 expenses that are incurred by a business entity to enable a qualified employment
14 opportunity employee of the business to be gainfully employed.

15 (4) (i) "Qualified employment opportunity employee" means an
16 individual who is a resident of Maryland and who for any 3 months during the 18
17 month period before the individual's employment with a business entity was a
18 recipient of temporary cash assistance from the State under the Aid to Families with
19 Dependent Children Program or the Family Investment Program and who for six
20 months before the individual's employment with a business entity was a Maryland
21 resident.

22 (ii) "Qualified employment opportunity employee" does not include
23 an individual who is the spouse of, or has any of the relationships specified in § 152
24 (a)(1) through (8) of the Internal Revenue Code to, a person who controls, directly or
25 indirectly, more than 50% of the ownership of the business entity.

26 (5) "Transportation expenses" means expenses that are incurred by a
27 business entity to enable a qualified employment opportunity employee to travel to
28 and from work.

29 (6) "Wages" means wages, within the meaning of § 51(c)(1), (2), and (3) of
30 the Internal Revenue Code without regard to § 51(c)(4) of the Internal Revenue Code,
31 that are paid by a business entity to an employee for services performed in a trade or
32 business of the business entity.

33 (b) [(1)] Except as provided in subsection (e) of this section, a business entity
34 may claim [a tax credit] AN INCOME TAX SUBTRACTION MODIFICATION in the
35 amounts determined under subsections (c) and (d) of this section for the wages and
36 qualified child care or transportation expenses with respect to a qualified
37 employment opportunity employee that are paid in the taxable year for which the
38 business entity claims the [credit] SUBTRACTION MODIFICATION.

1 [(2) The same tax credit cannot be applied more than once against
2 different taxes by the same taxpayer.]

3 (c) (1) Except as provided in paragraph (2) of this subsection, for each
4 taxable year, for the wages paid to each qualified employment opportunity employee,
5 [a credit] AND INCOME TAX SUBTRACTION MODIFICATION is allowed in an amount
6 equal to:

7 (i) 30% of up to the first \$6,000 of the wages paid to the qualified
8 employment opportunity employee during the first year of employment; and

9 (ii) 20% of up to the first \$6,000 of the wages paid to the qualified
10 employment opportunity employee during the second year of employment.

11 (2) If the qualified employment opportunity employee has been a
12 recipient of temporary cash assistance from the State under the Aid to Families with
13 Dependent Children Program or the Family Investment Program for at least 18 of the
14 last 48 months, whether consecutive or not consecutive, and has been employed for a
15 full year by a business entity claiming the [credit] SUBTRACTION MODIFICATION,
16 the [credit] SUBTRACTION MODIFICATION allowed under this section is an amount
17 equal to 40% of up to the first \$10,000 in wages paid to the qualified employment
18 opportunity employee during the first year of employment.

19 (d) For each taxable year, for child care provided or paid for by a business
20 entity for the children of a qualified employment opportunity employee of the
21 business entity or for transportation expenses, a [credit] SUBTRACTION
22 MODIFICATION is allowed in an amount equal to:

23 (1) Up to \$600 of the qualified child care or transportation expenses
24 incurred for each qualified employment opportunity employee during the first year of
25 employment; and

26 (2) Up to \$500 of the qualified child care or transportation expenses
27 incurred for each qualified employment opportunity employee during the second year
28 of employment.

29 (e) (1) A business entity may not claim the [credit] SUBTRACTION
30 MODIFICATION under this section for an employee:

31 (i) Who is hired to replace a laid-off employee or to replace an
32 employee who is on strike; or

33 (ii) For whom the business entity simultaneously receives federal
34 or State employment training benefits.

35 (2) A business entity may not claim the [credit] SUBTRACTION
36 MODIFICATION under this section until it has notified the appropriate government
37 agency that the qualified employment opportunity employee has been hired.

1 (3) A business entity may claim a [credit] SUBTRACTION
2 MODIFICATION in the amount provided in paragraph (4) of this subsection for an
3 employee whose employment lasts less than 1 year if the employee:

4 (i) Voluntarily terminates employment with the employer;

5 (ii) Is unable to continue employment due to death or a disability;
6 or

7 (iii) Is terminated for cause.

8 (4) (i) If a business entity is entitled to a [tax credit] SUBTRACTION
9 MODIFICATION under paragraph (c)(1) of this section for an employee who is
10 employed for less than 1 year because the employee voluntarily terminates
11 employment with the employer to take another job, the business entity may claim a
12 [tax credit] SUBTRACTION MODIFICATION of 30% of up to the first \$6,000 of the
13 wages paid to the employee during the course of employment.

14 (ii) If a business entity is entitled to a [tax credit] SUBTRACTION
15 MODIFICATION under paragraph (c)(1) of this section for an employee who is
16 employed for less than 1 year for a reason other than that described in subparagraph
17 (i) of this paragraph, the amount of the [credit] SUBTRACTION MODIFICATION shall
18 be reduced by the proportion of a year that the employee did not work.

19 [(f) If the credit allowed under this section in any taxable year exceeds the
20 total tax otherwise payable by the business entity for that taxable year, a business
21 entity may apply the excess as a credit for succeeding taxable years until the earlier
22 of:

23 (1) The full amount of the excess is used; or

24 (2) The expiration of the fifth taxable year after the taxable year in
25 which the wages or qualified child care expenses for which the credit is claimed are
26 paid.

27 (g) If a credit is claimed under this section, the claimant must make the
28 addition required in § 10-205 or § 10-306 of the Tax - General Article.

29 (h)] (F) The Comptroller in cooperation with the Department of Labor,
30 Licensing, and Regulation and the Department of Human Resources shall administer
31 the [credit] SUBTRACTION MODIFICATION under this section.

32 (i) The Department of Labor, Licensing, and Regulation, the Department of
33 Human Resources, and the Comptroller shall report to the Governor and, subject to §
34 2-1246 of the State Government Article, to the General Assembly before January 15
35 of each year on:

36 (1) Marketing activities;

37 (2) The coordination of interagency activities;

1 (4) "Qualified child care or transportation expenses" means:

2 (i) State regulated child care expenses that are incurred by a
3 business entity to enable a qualified employee with a disability to be gainfully
4 employed; or

5 (ii) Transportation expenses that are incurred by a business entity
6 to enable a qualified employee with a disability to travel to and from work.

7 (5) (i) "Qualified employee with a disability" means an individual who:

8 1. Meets the definition of an individual with a disability as
9 defined by the Americans with Disabilities Act;

10 2. Has a disability that presently constitutes an impediment
11 to obtaining or maintaining employment or to transitioning from school to work;

12 3. Is ready for employment; and

13 4. Has been determined by the Division or the Department of
14 Labor, Licensing, and Regulation, in consultation with the Division, as having met
15 the criteria of a qualified employee with a disability established under this section.

16 (ii) "Qualified employee with a disability" includes:

17 1. An individual who has been determined by the
18 Department of Labor, Licensing, and Regulation, in consultation with the United
19 States Veterans Administration, as having been discharged or released from active
20 duty in the armed forces of the United States for a service-connected disability; and

21 2. Any other individual meeting the definition of
22 subparagraph (i) of this paragraph, whether or not the individual receives services
23 from the Division.

24 (6) "Wages" means wages, within the meaning of § 51(c)(1), (2), and (3) of
25 the Internal Revenue Code without regard to § 51(c)(4) of the Internal Revenue Code
26 that are paid by a business entity to an employee for services performed in a trade or
27 business of the employer.

28 (b) [(1)] Except as provided in subsection (e) of this section, a business entity
29 may claim [a tax credit] AN INCOME TAX SUBTRACTION MODIFICATION in the
30 amounts determined under subsections (c) and (d) of this section for the wages and
31 qualified child care or transportation expenses with respect to a qualified employee
32 with a disability that are paid in the taxable year for which the business entity claims
33 the [credit] SUBTRACTION MODIFICATION.

34 [(2)] The same tax credit cannot be applied more than once against
35 different taxes by the same taxpayer.]

1 (c) For each taxable year, for the wages paid to each qualified employee with
2 a disability, a [credit] SUBTRACTION MODIFICATION is allowed in an amount equal
3 to:

4 (1) 30% of up to the first \$6,000 of the wages paid to the qualified
5 employee with a disability during the 1st year of employment; and

6 (2) 20% of up to the first \$6,000 of the wages paid to the qualified
7 employee with a disability during the 2nd year of employment.

8 (d) For each taxable year, for child care provided or paid for by a business
9 entity for the children of a qualified employee with a disability, or transportation
10 expenses that are incurred by a business entity to enable a qualified employee with a
11 disability to travel to and from work, a [credit] SUBTRACTION MODIFICATION is
12 allowed in an amount equal to:

13 (1) Up to \$600 of the qualified child care or transportation expenses
14 incurred for each qualified employee with a disability during the first year of
15 employment; and

16 (2) Up to \$500 of the qualified child care or transportation expenses
17 incurred for each qualified employee with a disability during the second year of
18 employment.

19 (e) (1) A business entity may not claim the [credit] SUBTRACTION
20 MODIFICATION under this section for an employee:

21 (i) Who is hired to replace a laid-off employee or to replace an
22 employee who is on strike; or

23 (ii) For whom the business entity simultaneously receives federal
24 or State employment training benefits.

25 (2) A business entity may not claim the [credit] SUBTRACTION
26 MODIFICATION under this section until it has notified the Division that a qualified
27 employee with a disability has been hired.

28 (3) A business entity may claim a [credit] SUBTRACTION
29 MODIFICATION in the amount provided in paragraph (5) of this subsection for an
30 employee whose employment lasts less than 1 year if the employee:

31 (i) Voluntarily terminates employment with the employer;

32 (ii) Is unable to continue employment due to a further disability or
33 death; or

34 (iii) Is terminated for cause.

35 (4) A business entity may not claim the [credit] SUBTRACTION
36 MODIFICATION under this section if the business entity is claiming a [tax credit]

1 SUBTRACTION MODIFICATION for the same employee under Article 88A, § 54 of the
2 Code.

3 (5) (i) If a business entity is entitled to a [tax credit] SUBTRACTION
4 MODIFICATION for an employee who is employed for less than 1 year because the
5 employee voluntarily terminates employment with the employer to take another job,
6 the business entity may claim a [tax credit] SUBTRACTION MODIFICATION of 30% of
7 up to the first \$6,000 of the wages paid to the employee during the course of
8 employment.

9 (ii) If a business entity is entitled to a [tax credit] SUBTRACTION
10 MODIFICATION for an employee who is employed for less than 1 year for a reason
11 other than that described in subparagraph (i) of this paragraph, the amount of the
12 [credit] SUBTRACTION MODIFICATION shall be reduced by the proportion of a year
13 that the employee did not work.

14 [(f) If the credit allowed under this section in any taxable year exceeds the
15 total tax otherwise payable by the business entity for that taxable year, a business
16 entity may apply the excess as a credit for succeeding taxable years until the earlier
17 of:

18 (1) The full amount of the excess is used; or

19 (2) The expiration of the 5th taxable year after the taxable year in which
20 the wages or qualified child care or transportation expenses for which the credit is
21 claimed are paid.

22 (g) If a credit is claimed under this section, the claimant must make the
23 addition required in § 10-205 or § 10-306 of the Tax - General Article.

24 (h) (F) (1) Subject to the provisions of this subsection, the Department of
25 Labor, Licensing, and Regulation and the State Department of Education shall jointly
26 adopt regulations necessary to carry out the provisions of this section.

27 (2) The Comptroller shall adopt regulations to provide for the
28 computation [and carryover] of the [credit under § 10-704.7 of the Tax - General
29 Article] SUBTRACTION MODIFICATION.

30 [(3) The Department of Assessments and Taxation shall adopt
31 regulations to provide for the computation and carryover of the credit under §§ 8-216
32 and 8-413 of the Tax - General Article.

33 (4) The Maryland Insurance Commissioner shall adopt regulations to
34 provide for the computation and carryover of the credit under § 6-115 of the
35 Insurance Article.]

36 [(i) (G) The Department of Labor, Licensing, and Regulation shall
37 administer the [tax credit] SUBTRACTION MODIFICATION and report to the
38 Governor, and, subject to § 2-1246 of the State Government Article, to the General
39 Assembly, before January 15 of each year on:

- 1 (1) Marketing activities for the credit under this section;
- 2 (2) The number of business entities who hired a qualified employee with
3 a disability during the preceding year;
- 4 (3) The number of qualified employees with disabilities:
- 5 (i) Hired in each business sector for the preceding year; and
- 6 (ii) Hired during the preceding year and employed for less than 1
7 year;
- 8 (4) A summary of the average hourly wages paid to qualified employees
9 with disabilities for the preceding year;
- 10 (5) The number and amount of [credits] SUBTRACTION MODIFICATIONS
11 claimed during the preceding year; and
- 12 (6) The number and amount of [credits] SUBTRACTION MODIFICATIONS
13 claimed for child care or transportation expenses, including a summary of the types of
14 transportation expenses incurred by business entities.
- 15 21-501.
- 16 (b) (5) A contractor at a multicraft construction site may not qualify for the
17 tax [credit] BENEFIT authorized under this section for more than 2 students.
- 18 (c) (1) In order for an employer to be eligible to claim a [tax credit]
19 SUBTRACTION MODIFICATION UNDER THIS SECTION, each student must be employed
20 by the employer for 200 hours or more.
- 21 (2) An employer may claim a [tax credit] SUBTRACTION MODIFICATION
22 in an amount equal to 15% of the wages paid to each student during the taxable year
23 under a work-based learning program that has been approved by the Department as
24 qualifying for the [tax credit] SUBTRACTION MODIFICATION under this section.
- 25 (3) The cumulative [credit] SUBTRACTION MODIFICATION allowed
26 under this section to an employer in the current taxable year and all previous taxable
27 years may not exceed \$1,500 per student.
- 28 [(4) If the credit allowed under this subsection in any taxable year
29 exceeds the total tax otherwise payable by the employer for that taxable year, the
30 excess may be carried forward and applied as a credit for succeeding taxable years
31 until the earlier of:
- 32 (i) The full amount of excess is used; or
- 33 (ii) The expiration of the 5th taxable year in which the contribution
34 was made.]

1 (d) The [tax credit] SUBTRACTION MODIFICATION authorized under this
2 section shall be allowed only for taxable years beginning on or before December 31,
3 2003.

4 (e) (1) The Department shall adopt regulations to implement this section.

5 (2) (i) The regulations adopted under this subsection shall include a
6 process for approval of paid work-based learning programs as qualifying for the tax
7 [credit] BENEFIT under this section.

8 (ii) The number of eligible paid work-based learning program
9 students approved by the Department may not exceed 1,000 for each taxable year.

10 (3) The regulations adopted under this subsection shall include a process
11 for certifying employers' eligibility for the tax [credit] BENEFIT under this section.

12 (4) The Department may delegate the approval authority for programs
13 under this section to one or more private industry councils.

14 **Article - Environment**

15 2-901.

16 (b) A business entity may claim [a tax credit] AN INCOME TAX SUBTRACTION
17 MODIFICATION in an amount equal to 50% of the cost of providing the following
18 commuter benefits to the business entity's employees:

19 (1) If provided for the purpose of travel between the employee's residence
20 and place of employment, any portion of the cost of transportation to or from a
21 location in the State in a vehicle or an instrument that is used to offset any portion of
22 the cost of transportation to or from a location in the State in a vehicle:

23 (i) With a seating capacity of at least eight adult individuals; and

24 (ii) At least 80% of the annual mileage of which is incurred:

25 1. For the purpose of transporting individuals between their
26 residences and their places of employment; and

27 2. On trips where the number of employees transported
28 together is at least one-half of that vehicle's adult seating capacity;

29 (2) An instrument that:

30 (i) Entitles an individual, at no additional cost or at a reduced fare,
31 to transportation to or from a location in the State on a publicly or privately owned
32 mass transit system other than a taxi service; or

33 (ii) Is redeemable at a transit pass sales outlet for the purpose
34 stated in item (i) of this item; or

1 (ii) for whom the business entity simultaneously receives federal or
2 State employment training benefits.

3 (2) A business entity may not claim the [credit] SUBTRACTION
4 MODIFICATION under this section until it has notified the Department that a
5 qualified ex-felon employee has been hired.

6 (3) A business entity may claim a [credit] SUBTRACTION
7 MODIFICATION in the amount provided in paragraph (5) of this subsection for an
8 employee whose employment lasts less than 1 year if the employee:

9 (i) voluntarily terminates employment with the employer;

10 (ii) is unable to continue employment due to a disability or death;
11 or

12 (iii) is terminated for cause.

13 (4) A business entity may not claim the [credit] SUBTRACTION
14 MODIFICATION under this section if the business entity is claiming a [tax credit]
15 SUBTRACTION MODIFICATION for the same employee under Article 88A, § 54 of the
16 Code or § 21-309 of the Education Article.

17 (5) (i) If a business entity is entitled to a [tax credit] SUBTRACTION
18 MODIFICATION for an employee who is employed for less than 1 year because the
19 employee voluntarily terminates employment with the employer to take another job,
20 the business entity may claim a [tax credit] SUBTRACTION MODIFICATION of 30% of
21 up to the first \$6,000 of the wages paid to the employee during the course of
22 employment.

23 (ii) If a business entity is entitled to a [tax credit] SUBTRACTION
24 MODIFICATION for an employee who is employed for less than 1 year for a reason
25 other than that described in subparagraph (i) of this paragraph, the amount of the
26 [credit] SUBTRACTION MODIFICATION shall be reduced by the proportion of a year
27 that the employee did not work.

28 [(d) If the credit allowed under this section in any taxable year exceeds the
29 total tax otherwise payable by the business entity for that taxable year, a business
30 entity may apply the excess as a credit for succeeding taxable years until the earlier
31 of:

32 (1) the full amount of the excess is used; or

33 (2) the expiration of the fifth taxable year after the taxable year in
34 which the wages for which the credit is claimed are paid.

35 (e) If a credit is claimed under this section, the claimant must make the
36 addition required in § 10-205 or § 10-306 of the Tax - General Article.]

1 11-705.

2 (a) The Department, in consultation with the Board, shall adopt regulations
3 necessary to carry out the provisions of this subtitle.

4 (b) The Comptroller shall adopt regulations to provide for the computation
5 [and carryover of the credit under § 10-704.10] OF THE SUBTRACTION
6 MODIFICATION UNDER § 10-233 of the Tax - General Article.

7 (C) (1) THE PROVISIONS OF THIS SUBTITLE AND THE INCOME TAX
8 SUBTRACTION MODIFICATION AUTHORIZED UNDER THIS SUBTITLE SHALL
9 TERMINATE AS OF JANUARY 1, 2005.

10 (2) THE SUBTRACTION MODIFICATION AUTHORIZED UNDER THIS
11 SUBTITLE MAY BE CLAIMED ONLY FOR EMPLOYEES HIRED ON OR AFTER JULY 1, 2002
12 BUT BEFORE DECEMBER 31, 2004.

13 **Article - Tax - Property**

14 9-230.

15 (b) (2) (i) If a property tax credit is granted under paragraph (1) of this
16 subsection, a business entity that meets the requirements for the property tax credit
17 under this section and obtains certification from the county or municipal corporation
18 may claim a [State tax credit against] SUBTRACTION MODIFICATION FOR PURPOSES
19 OF the individual or corporate income tax[, insurance premiums tax, or financial
20 institution franchise tax] as provided under subsection (c)(3) of this section.

21 (ii) If an enhanced property tax credit is granted under this section
22 and a business entity and its affiliates meet the requirements for the enhanced
23 property tax credit and obtain certification from the county or municipal corporation,
24 the business entity or any of its affiliates may claim a [State tax credit against]
25 SUBTRACTION MODIFICATION FOR PURPOSES OF the individual or corporate income
26 tax[, insurance premiums tax, or financial institution franchise tax] as provided
27 under subsection (d)(4) of this section.

28 (c) (3) On receipt of notification under subsection (b)(7) of this section that a
29 business entity has been certified for a property tax credit under this subsection, the
30 Department shall compute and certify to the Comptroller [or, in the case of the
31 insurance premiums tax, the Maryland Insurance Commissioner] the amount of the
32 [State tax credit] SUBTRACTION MODIFICATION authorized under this subsection
33 that may be claimed [against] FOR PURPOSES OF the individual or corporate income
34 tax, [insurance premiums tax, or financial institution franchise tax that would
35 otherwise be due] to equal a percentage of the amount of property tax imposed on the
36 assessment of the new or expanded premises, as follows:

37 (i) 28% in the 1st and 2nd taxable years;

38 (ii) 21% in the 3rd and 4th taxable years;

1 (iii) 14% in the 5th and 6th taxable years; and

2 (iv) 0% for each taxable year thereafter.

3 (d) (5) On receipt of notification under subsection (b)(7) of this section that a
4 business entity has been certified for an enhanced property tax credit under this
5 subsection, the Department shall compute and certify to the Comptroller [or, in the
6 case of the insurance premiums tax, the Maryland Insurance Commissioner] the
7 amount of the [State tax credit] SUBTRACTION MODIFICATION authorized under this
8 subsection that may be claimed by the business entity or any of its affiliates
9 [against] FOR PURPOSES OF the individual or corporate income tax, [insurance
10 premiums tax, or financial institution franchise tax that would otherwise be due] to
11 equal 31.5% of the amount of property tax imposed on the increase in assessment of
12 the real and personal property described in paragraph (4)(ii) of this subsection for
13 each of the first 12 taxable years for which the [credit] SUBTRACTION
14 MODIFICATION is allowed.

15 [(e) The same State tax credit cannot be applied more than once against
16 different taxes by the same taxpayer.]

17 [(f) If the State tax credit allowed under this section in any taxable year
18 exceeds the total tax otherwise payable by the business entity for that taxable year, a
19 business entity or its affiliates may apply the excess as a credit for succeeding taxable
20 years until the earlier of:

21 (1) the full amount of the excess is used; or

22 (2) the expiration of the 5th taxable year after the taxable year in which
23 the State tax credit is claimed.]

24 [(g) The Maryland Insurance Commissioner shall adopt regulations to provide
25 for the computation, carryover, and recapture of the State tax credit under § 6-116 of
26 the Insurance Article.]

27 [(h) The Department shall adopt regulations to provide for the computation,
28 carryover, and recapture of the State tax credit under § 8-217 of the Tax - General
29 Article.]

30 [(i) (E) The Comptroller shall adopt regulations to provide for the
31 computation[, carryover,] and recapture of the [State tax credit] SUBTRACTION
32 MODIFICATION under [§ 10-704.8] § 10-231 of the Tax - General Article.

33 [(j) (F) The lessor of real property eligible for property tax credits under this
34 section shall reduce by the amount of the property tax credits computed under this
35 section the amount of taxes for which the eligible business entity is contractually
36 liable under the lease agreement.

37 [(k) (G) The governing body of the county or municipal corporation shall
38 provide, by law, for:

1 (1) the specific requirements for eligibility for a tax credit authorized
2 under this section;

3 (2) any additional limitations on eligibility for the credit;

4 (3) the information to be supplied by the business entity to a county or
5 municipal corporation and the Comptroller to verify that the business entity is not
6 subject to subsection [(1)] (H) of this section; and

7 (4) any other provision appropriate to implement the credit.

8 [(l)] (H) All credits AND SUBTRACTION MODIFICATIONS claimed under this
9 section for a taxable year shall be recaptured if, during the 3 taxable years succeeding
10 the taxable year in which a credit was claimed:

11 (1) the employment level or square footage of a business entity at the
12 premises falls below the applicable thresholds required to qualify for the property tax
13 credit under subsection (c) of this section; or

14 (2) For the enhanced property tax credit, the employment level or square
15 footage of a business entity, together with its affiliates, at the premises falls below the
16 applicable thresholds required to qualify for the enhanced property tax credit under
17 subsection (d) of this section.

18 [(m)] (I) On October 1 of each year, each county and municipal corporation
19 that has granted tax credits under this section shall report to the Department, the
20 Department of Business and Economic Development, and the Comptroller:

21 (1) the amount of each credit granted for that year; and

22 (2) whether the business entity is in compliance with the requirements
23 for the tax credit.

24 [(n)] (J) (1) After a business entity has complied with all the requirements
25 provided in this section and in any applicable local law for a particular tax credit, the
26 business entity shall be entitled to claim the credits for the term provided in this
27 section.

28 (2) No abrogation of this law or law hereinafter enacted that eliminates
29 or reduces the tax credits available under this section shall apply to any business
30 entity or affiliate of a business entity that qualified for the tax credits before the
31 effective date of such law or abrogation.

32 **Article - Tax - General**

33 10-208.

34 (A-1) THE SUBTRACTION UNDER THIS SECTION INCLUDES THE SUBTRACTIONS
35 ALLOWED UNDER PART V OF THIS SUBTITLE.

1 10-218.

2 (b) An individual who elects to itemize deductions is allowed as a deduction
3 the sum of the individual's federal itemized deductions:

4 (1) limited and reduced as required under the Internal Revenue Code;
5 AND

6 [(2) further reduced by any amount deducted under § 170 of the Internal
7 Revenue Code for contributions of a preservation or conservation easement for which
8 a credit is claimed under § 10-723 of this title; and]

9 [(3)] (2) further reduced by the amount claimed as taxes on income paid
10 to a state or political subdivision of a state, after subtracting a pro rata portion of the
11 reduction to itemized deductions required under § 68 of the Internal Revenue Code.

12 PART V. ADDITIONAL ADJUSTMENTS TO DETERMINE MARYLAND TAXABLE INCOME.

13 10-226.

14 (b) (1) Any business entity that is located in an enterprise zone and satisfies
15 the requirements of Article 83A, § 5-404 of the Code may claim [a credit only against
16 the State income tax] A SUBTRACTION MODIFICATION for the wages specified in
17 subsections (c) and (d) of this section that are paid in the taxable year for which the
18 entity claims the [credit] SUBTRACTION MODIFICATION.

19 (2) A business entity that is located in a focus area and satisfies the
20 requirements of Article 83A, § 5-404 of the Code may claim a [credit only against the
21 State income tax] SUBTRACTION MODIFICATION for the wages specified in
22 subsection (e) of this section that are paid to a focus area employee in the taxable year
23 for which the entity claims the [credit] SUBTRACTION MODIFICATION.

24 [(3) An organization that is exempt from taxation under § 501(c)(3) or (4)
25 of the Internal Revenue Code may apply the credit under this section as a credit
26 against income tax due on unrelated business taxable income as provided under §§
27 10-304 and 10-812 of this title.]

28 (c) If a business entity does not claim an enhanced [tax credit] SUBTRACTION
29 MODIFICATION under subsection (e) of this section for a focus area employee, for the
30 taxable year in which a business entity satisfies the requirements of Article 83A, §
31 5-404 of the Code, a [credit] SUBTRACTION MODIFICATION is allowed that equals:

32 (1) up to \$3,000 of the wages paid to each qualified employee who:

33 (i) is an economically disadvantaged individual; and

34 (ii) is not hired to replace an individual whom the business entity
35 employed in that or any of the 3 preceding taxable years; and

36 (2) up to \$1,000 of the wages paid to each qualified employee who:

1 (i) is not an economically disadvantaged individual; and

2 (ii) is not hired to replace an individual whom the business entity
3 employed in that or any of the 3 preceding taxable years.

4 (d) (1) If a business entity does not claim an enhanced [tax credit]
5 SUBTRACTION MODIFICATION under subsection (e) of this section for a focus area
6 employee, for each taxable year after the taxable year described in subsection (c) of
7 this section, while the area is designated an enterprise zone, a [credit] SUBTRACTION
8 MODIFICATION is allowed that equals:

9 (i) up to \$3,000 of the wages paid to each qualified employee who:

10 1. is an economically disadvantaged individual;

11 2. became a qualified employee during the taxable year to
12 which the credit applies; and

13 3. is not hired to replace an individual whom the business
14 entity employed in that or any of the 3 preceding taxable years;

15 (ii) up to \$2,000 of the wages paid to each qualified employee who is
16 an economically disadvantaged individual, if the business entity received a credit
17 under subsection (c)(1) of this section for the qualified employee in the immediately
18 preceding taxable year; and

19 (iii) up to \$1,000 of the wages paid to each qualified employee who is
20 not hired to replace an individual whom the business entity employed in that or any
21 of the 3 preceding taxable years if the qualified employee:

22 1. is an economically disadvantaged individual for whom the
23 business entity received a credit under subsection (c)(1) of this section or item (i) of
24 this paragraph and a credit under item (ii) of this paragraph in the 2 immediately
25 preceding taxable years; or

26 2. is not an economically disadvantaged individual but
27 became a qualified employee during the taxable year to which the credit applies.

28 (2) A business entity that hires a qualified employee to replace another
29 qualified employee for whom the business entity received a [credit] SUBTRACTION
30 MODIFICATION under subsection (c)(1) of this section and paragraph (1)(ii) of this
31 subsection in the immediately preceding taxable year may treat the new qualified
32 employee as the replacement for the other qualified employee to determine any
33 [credit] SUBTRACTION MODIFICATION that may be available to the business entity
34 under paragraph (1)(ii) or (iii) of this subsection.

35 (e) (1) For the taxable year in which a business entity satisfies the
36 requirements of Article 83A, §§ 5-402(k) and 5-404 of the Code, a [credit]
37 SUBTRACTION MODIFICATION is allowed that equals:

1 (i) up to \$4,500 of the wages paid to each focus area employee who:
2 1. is an economically disadvantaged individual; and
3 2. is not hired to replace an individual whom the business
4 entity employed in that year or any of the 3 preceding taxable years; and

5 (ii) up to \$1,500 of the wages paid to each focus area employee who:
6 1. is not an economically disadvantaged individual; and
7 2. is not hired to replace an individual whom the business
8 entity employed in that year or any of the 3 preceding taxable years.

9 (2) For each taxable year after the taxable year described in paragraph
10 (1) of this subsection, while the area is designated a focus area, a [credit]
11 SUBTRACTION MODIFICATION is allowed that equals:

12 (i) up to \$4,500 of the wages paid to each focus area employee who:
13 1. is an economically disadvantaged individual;
14 2. became a focus area employee during the taxable year to
15 which the [credit] SUBTRACTION MODIFICATION applies; and
16 3. is not hired to replace an individual whom the business
17 entity employed in that year or any of the 3 preceding taxable years;

18 (ii) up to \$3,000 of the wages paid to each focus area employee who
19 is an economically disadvantaged individual, if the business entity received a [credit]
20 SUBTRACTION MODIFICATION under paragraph (1)(i) of this subsection for the focus
21 area employee in the immediately preceding taxable year; and

22 (iii) up to \$1,500 of the wages paid to each focus area employee who
23 is not hired to replace an individual whom the business entity employed in that year
24 or any of the 3 preceding taxable years if the focus area employee:

25 1. is an economically disadvantaged individual for whom the
26 business entity received a [credit] SUBTRACTION MODIFICATION under item (ii) of
27 this paragraph in the 2 immediately preceding taxable years and under:

28 A. paragraph (1)(i) of this subsection; or
29 B. item (i) of this paragraph; or
30 2. is not an economically disadvantaged individual but
31 became a focus area employee during the taxable year to which the [credit]
32 SUBTRACTION MODIFICATION applies.

33 (3) A business entity that hires a focus area employee to replace another
34 focus area employee for whom the business entity received a [credit] SUBTRACTION

1 MODIFICATION under paragraph (1)(i) of this subsection and paragraph (2)(ii) of this
2 subsection in the immediately preceding taxable year may treat the focus area
3 employee as the replacement for the other focus area employee to determine any
4 [credit] SUBTRACTION MODIFICATION that may be available to the business entity
5 under paragraph (2)(ii) or (iii) of this subsection.

6 [(f) If the credit allowed under this section in any taxable year exceeds the
7 State income tax for that taxable year, a business entity may apply the excess as a
8 credit against the State income tax for succeeding taxable years until the earlier of:

9 (1) the full amount of the excess is used; or

10 (2) the expiration of the 5th taxable year from the date on which the
11 business entity hired the qualified employee to whom the credit first applies.]

12 [(g) If a credit is claimed under this section, the claimant must make the
13 addition required in § 10-205, § 10-206, or § 10-306 of this title.]

14 10-227.

15 (b) This section [does not apply] APPLIES ONLY to:

16 (1) a cogenerator or electricity supplier that is subject to the public
17 service company franchise tax; or

18 (2) an electricity supplier that, before July 1, 1999, was [not] an electric
19 company as defined in § 1-101 of the Public Utility Companies Article as in effect on
20 June 30, 1999[, unless the electricity supplier] OR is an affiliate of such an electric
21 company.

22 (c) A cogenerator or electricity supplier may claim a [credit] SUBTRACTION
23 MODIFICATION against the State income tax in the amount of \$3 for each ton of
24 Maryland-mined coal that the cogenerator or electricity supplier purchased in the
25 taxable year.

26 [(d) (1) A cogenerator or electricity supplier may only apply the credit
27 against the State income tax for the taxable year in which the credit was earned.

28 (2) The amount of the credit may not exceed the State income tax for
29 that taxable year.]

30 10-228.

31 An individual or a corporation may claim a [credit against the income tax]
32 SUBTRACTION MODIFICATION for wages paid to qualified employees as provided
33 under Article 83A, § 5-1102 of the Code.

34 10-229.

35 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN
36 INDIVIDUAL OR CORPORATION MAY CLAIM A SUBTRACTION MODIFICATION FOR

1 WAGES PAID TO OR CHILD CARE OR TRANSPORTATION EXPENSES PAID OR PROVIDED
2 FOR:

3 (1) A QUALIFIED EMPLOYMENT OPPORTUNITY EMPLOYEE AS PROVIDED
4 UNDER ARTICLE 88A, § 54 OF THE CODE; OR

5 (2) A QUALIFIED EMPLOYEE WITH A DISABILITY AS PROVIDED UNDER §
6 21-309 OF THE EDUCATION ARTICLE.

7 (B) THE SUBTRACTION MODIFICATION UNDER THIS SECTION DOES NOT
8 APPLY TO ANY TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2006.

9 10-230.

10 An individual or a corporation may claim a [credit against the State income
11 tax] SUBTRACTION MODIFICATION for neighborhood and community assistance
12 contributions as provided under Article 83B, § 4-704 of the Code.

13 10-231.

14 An individual or a corporation may claim a [State tax credit against the income
15 tax] SUBTRACTION MODIFICATION as provided under § 9-230 of the Tax - Property
16 Article.

17 10-232.

18 (a) Subject to the provisions of this section, an individual or a corporation may
19 claim a [credit against the State income tax] SUBTRACTION MODIFICATION for a
20 taxable year in the amount equal to 50% of the certified additional commercial
21 fertilizer costs necessary to convert agricultural production to a nutrient management
22 plan under Title 8, Subtitle 8 of the Agriculture Article.

23 (b) (1) The [credit] SUBTRACTION MODIFICATION allowed under this
24 section may only be claimed by an individual or a corporation for up to 3 consecutive
25 taxable years.

26 (2) The [credit] SUBTRACTION MODIFICATION allowed under this
27 section may not exceed \$4,500 in any taxable year.

28 [(3) (i) If the credit allowed under this section in any taxable year
29 exceeds the total tax otherwise payable by the individual or corporation for that
30 taxable year, the individual or corporation may apply the excess as a credit for
31 succeeding taxable years until the earlier of:

32 1. the full amount of the excess is used; or

33 2. the expiration of the 5th succeeding taxable year.

34 (ii) Any excess credit carried forward under this paragraph does not
35 apply to the credit limit specified in paragraph (2) of this subsection.]

1 (c) The [credit] SUBTRACTION MODIFICATION allowed under this section
2 may not be earned for any [credit] TAXABLE year beginning on or after January 1,
3 2009.

4 (d) (1) To qualify for the [credit] SUBTRACTION MODIFICATION under this
5 section, an individual or a corporation must receive a statement from the Department
6 of Agriculture certifying:

7 (i) that the individual or corporation has submitted a nutrient
8 management plan to the Department in accordance with Title 8, Subtitle 8 of the
9 Agriculture Article;

10 (ii) that the additional commercial fertilizer costs are necessary to
11 convert agricultural production to comply with a nutrient management plan under
12 Title 8, Subtitle 8 of the Agriculture Article; and

13 (iii) the amount of the [credit] SUBTRACTION MODIFICATION that
14 the individual or corporation is eligible to take for the taxable year.

15 (2) An individual or a corporation must file proof of certification by the
16 Department of Agriculture in a manner prescribed by the Comptroller.

17 (e) Subject to the provisions of this subsection, the State Department of
18 Agriculture shall adopt regulations necessary to carry out the provisions of this
19 section.

20 10-233.

21 AN INDIVIDUAL OR CORPORATION MAY CLAIM A SUBTRACTION MODIFICATION
22 FOR WAGES PAID TO A QUALIFIED EX-FELON EMPLOYEE AS PROVIDED UNDER §
23 11-704 OF THE LABOR AND EMPLOYMENT ARTICLE.

24 10-234.

25 (a) An individual may claim a [credit against the State income tax]
26 SUBTRACTION MODIFICATION for a taxable year in the amount specified in
27 subsection (b) of this section for property tax paid in that taxable year for
28 owner-occupied, residential real property that is granted a property tax credit under
29 § 9-317(e), § 9-318(d), or § 9-326 of the Tax - Property Article.

30 (b) The [credit] SUBTRACTION MODIFICATION shall equal the amount of the
31 property tax credit granted for property tax paid under § 9-317(e), § 9-318(d), or §
32 9-326 of the Tax - Property Article.

33 [(c) If the credit allowed under this section in any taxable year exceeds the
34 State income tax for that taxable year, calculated before application of the credits
35 under this section and §§ 10-701 and 10-701.1 of this subtitle, but after application of
36 the other credits allowable under this subtitle, the excess of the credit shall be
37 refunded.]

1 10-235.

2 (A) IN THIS SECTION, "LONG-TERM CARE INSURANCE" HAS THE MEANING
3 STATED IN § 18-101 OF THE INSURANCE ARTICLE.

4 (B) (1) SUBJECT TO THE LIMITATION UNDER PARAGRAPH (2) OF THIS
5 SUBSECTION, AN EMPLOYER MAY CLAIM A SUBTRACTION MODIFICATION IN AN
6 AMOUNT EQUAL TO 5% OF THE COSTS INCURRED BY THE EMPLOYER DURING THE
7 TAXABLE YEAR TO PROVIDE LONG-TERM CARE INSURANCE AS PART OF AN
8 EMPLOYEE BENEFIT PACKAGE.

9 (2) THE SUBTRACTION MODIFICATION ALLOWED UNDER THIS SECTION
10 MAY NOT EXCEED THE LESSER OF:

11 (I) \$5,000; OR

12 (II) \$100 FOR EACH EMPLOYEE IN THE STATE COVERED BY
13 LONG-TERM CARE INSURANCE PROVIDED UNDER THE EMPLOYEE BENEFIT
14 PACKAGE.

15 10-236.

16 An individual or corporation may claim a [credit against the State income tax]
17 SUBTRACTION MODIFICATION for wages paid to each student under an approved paid
18 work-based learning program as provided under § 21-501 of the Education Article.

19 10-237.

20 An individual or corporation may claim a [credit against the State income tax]
21 SUBTRACTION MODIFICATION for One Maryland project costs and start-up costs as
22 provided under Article 83A, § 5-1501(b) and (c) of the Code.

23 10-238.

24 AN INDIVIDUAL OR CORPORATION MAY CLAIM A SUBTRACTION MODIFICATION
25 FOR THE COST OF PROVIDING COMMUTER BENEFITS TO THE BUSINESS ENTITY'S
26 EMPLOYEES AS PROVIDED UNDER § 2-901 OF THE ENVIRONMENT ARTICLE.

27 10-239.

28 (a) An individual who is a classroom teacher holding a standard professional
29 certificate or an advanced professional certificate may claim a [credit against the
30 State income tax] SUBTRACTION MODIFICATION for up to \$1,500 of tuition paid by
31 the individual during the taxable year for graduate level courses required to maintain
32 certification if the individual:

33 (1) successfully completes the courses with a grade of B or better;

34 (2) is employed by a county board of education;

1 (3) teaches in a public school and receives a satisfactory performance
2 evaluation for that teaching; and

3 (4) has not been reimbursed by the county for the tuition paid.

4 (b) [(1)] If a county partially reimburses an individual for tuition paid, the
5 individual may claim a [tax credit] SUBTRACTION MODIFICATION allowed under this
6 section for the balance of the tuition not paid by the county.

7 [(2)] The credit allowed under this section may not exceed the State
8 income tax for that taxable year, calculated before the application of the credits
9 allowed under this section and §§ 10-701 and 10-701.1 of this subtitle but after the
10 application of the other credits allowable under this subtitle.

11 (3) The unused amount of the credit for any taxable year may not be
12 carried over to any other taxable year.]

13 10-240.

14 (a) In this section, "eligible long-term care premiums" means eligible
15 long-term care premiums within the meaning of § 213(d)(10) of the Internal Revenue
16 Code for a long-term care insurance contract covering an individual who is a
17 Maryland resident.

18 (b) An individual may claim a [credit against the State income tax]
19 SUBTRACTION MODIFICATION in an amount equal to 100% of the eligible long-term
20 care premiums paid by the individual during the taxable year for long-term care
21 insurance covering the individual or the individual's spouse, parent, stepparent,
22 child, or stepchild.

23 (c) The [credit] SUBTRACTION MODIFICATION allowed under this section:

24 (1) may not exceed \$500 for each insured covered by long-term care
25 insurance for which the individual pays the premiums;

26 (2) may not be claimed by more than one taxpayer with respect to the
27 same insured individual; and

28 (3) may not be claimed with respect to an insured individual if:

29 (i) the insured individual was covered by long-term care insurance
30 at any time before July 1, 2000; or

31 (ii) the [credit] SUBTRACTION MODIFICATION has been claimed
32 with respect to that insured individual by any taxpayer for any prior taxable year.

33 [(d) (1)] The total amount of the credit allowed under this section for any
34 taxable year may not exceed the State income tax for that taxable year, calculated
35 before application of the credits under this section and §§ 10-701 and 10-701.1 of this
36 subtitle, but after application of the other credits allowable under this subtitle.

1 (2) The unused amount of the credit for any taxable year may not be
2 carried over to any other taxable year.]

3 [(e)] (D) The [credit] SUBTRACTION MODIFICATION allowed under this
4 section does not affect the treatment under this title of any deduction or exclusion
5 allowed for federal income tax purposes for the eligible long-term care premiums paid
6 by the individual.

7 [(f)] (E) On or before December 1, 2005 and each December 1 thereafter, the
8 Comptroller shall report to the Governor and, subject to § 2-1246 of the State
9 Government Article, to the General Assembly, regarding the [credit] SUBTRACTION
10 MODIFICATION allowed under this section, including:

11 (1) the number of individuals who have claimed the [credit]
12 SUBTRACTION MODIFICATION, the amount allowed as [credits] A SUBTRACTION
13 MODIFICATION, and the additional number of individuals covered by long-term care
14 insurance as a result of the [credit] SUBTRACTION MODIFICATION; and

15 (2) the savings under the State's Medical Assistance Program as a result
16 of additional individuals being covered by long-term care insurance as a result of the
17 [credit] SUBTRACTION MODIFICATION.

18 10-241.

19 (b) An individual or a corporation may claim a [credit against the State
20 income tax] SUBTRACTION MODIFICATION for a taxable year as provided in this
21 section for the costs of solar water heating property or photovoltaic property placed in
22 service during the taxable year.

23 (c) (1) Subject to the limitations under paragraph (2) of this subsection, the
24 [credit] SUBTRACTION MODIFICATION allowed under this section includes 15% of the
25 total installed cost of photovoltaic property or solar water heating property.

26 (2) The [credit] SUBTRACTION MODIFICATION allowed under this
27 subsection may not exceed:

28 (i) \$2,000 for each system for photovoltaic property; and

29 (ii) \$1,000 for each system for solar water heating property.

30 [(d)] (1) The total amount of the credit allowed under this section for any
31 taxable year may not exceed the State income tax for that taxable year, calculated
32 before application of the credits under this section and §§ 10-701 and 10-701.1 of this
33 subtitle, but after application of the other credits allowable under this subtitle.

34 (2) The unused amount of the credit for any taxable year may not be
35 carried over to any other taxable year.]

36 [(e)] (D) Except as otherwise provided in this title, for purposes of
37 determining Maryland taxable income, the basis of property with respect to which the

1 [credit] SUBTRACTION MODIFICATION under this section is allowed shall be its basis
2 for federal income tax purposes.

3 [(f)] (E) The [credit] SUBTRACTION MODIFICATION under this section may
4 not be claimed for property placed in service:

5 (1) before July 1, 2000; or

6 (2) after December 31, 2004.

7 10-242.

8 (b) (1) Except as provided in paragraph (2) of this subsection, an individual
9 or corporation may claim a [credit] SUBTRACTION MODIFICATION against the State
10 income tax for a taxable year in an amount equal to 0.85 cents for each kilowatt hour
11 of electricity:

12 (i) produced by the individual or corporation from qualified energy
13 resources at a qualified Maryland facility during the 10-year period beginning on:

14 1. the date the facility was originally placed in service; or

15 2. in the case of a facility that produces electricity from a
16 qualified energy resource that is co-fired with coal, the date of the initial co-firing;
17 and

18 (ii) sold by the individual or corporation to a person other than a
19 related person, within the meaning of § 45 of the Internal Revenue Code, during the
20 taxable year.

21 (2) If the electricity is produced from a qualified energy resource that is
22 co-fired at a facility that produces electricity from coal, the [credit] SUBTRACTION
23 MODIFICATION is 0.5 cents for each kilowatt hour of electricity produced from the
24 qualified energy resource instead of 0.85 cents.

25 [(c) If the credit allowed under this section exceeds the State income tax, any
26 unused credit may be carried forward and applied for succeeding taxable years until
27 the earlier of:

28 (1) the full amount of the credit is used; or

29 (2) the expiration of the 10th taxable year after the taxable year in
30 which the credit arose.]

31 10-243.

32 (b) Subject to the limitations of this section, an individual or a corporation
33 may claim [credits] A SUBTRACTION MODIFICATION against the State income tax in
34 an amount equal to:

1 (1) 3% of the Maryland qualified research and development expenses,
2 not exceeding the Maryland base amount for the individual or corporation, paid or
3 incurred by the individual or corporation during the taxable year; and

4 (2) 10% of the amount by which the Maryland qualified research and
5 development expenses paid or incurred by the individual or corporation during the
6 taxable year exceed the Maryland base amount for the individual or corporation.

7 [(c) (1) By September 15 of the calendar year following the end of the taxable
8 year in which the Maryland qualified research and development expenses were
9 incurred, an individual or corporation shall submit an application to the Department
10 for the credits allowed under subsection (b)(1) and (2) of this section.

11 (2) (i) Except as provided under paragraph (4) of this subsection, the
12 total amount of credits approved by the Department under subsection (b)(1) of this
13 section may not exceed \$3,000,000 for any calendar year.

14 (ii) Subject to paragraph (4) of this subsection, if the total amount
15 of credits applied for by all individuals and corporations under subsection (b)(1) of this
16 section exceeds the maximum specified under subparagraph (i) of this paragraph, the
17 Department shall approve a credit under subsection (b)(1) of this section for each
18 applicant in an amount equal to the product of multiplying the credit applied for by
19 the applicant times a fraction:

20 1. the numerator of which is the maximum specified under
21 subparagraph (i) of this paragraph; and

22 2. the denominator of which is the total of all credits applied
23 for by all applicants under subsection (b)(1) of this section in the calendar year.

24 (3) (i) Except as provided in paragraph (4) of this subsection, the total
25 amount of credits approved by the Department under subsection (b)(2) of this section
26 may not exceed \$3,000,000 for any calendar year.

27 (ii) Subject to paragraph (4) of this subsection, if the total amount
28 of credits applied for by all individuals and corporations under subsection (b)(2) of this
29 section exceeds the maximum specified under subparagraph (i) of this paragraph, the
30 Department shall approve a credit under subsection (b)(2) of this section for each
31 applicant in an amount equal to the product of multiplying the credit applied for by
32 the applicant times a fraction:

33 1. the numerator of which is the maximum specified under
34 subparagraph (i) of this paragraph; and

35 2. the denominator of which is the total of all credits applied
36 for by all applicants under subsection (b)(2) of this section in the calendar year.

37 (4) (i) For any calendar year, if the maximum specified under
38 paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by
39 all individuals and corporations under subsection (b)(1) of this section, the maximum

1 specified under paragraph (3)(i) of this subsection shall be increased for that calendar
2 year by an amount equal to the amount by which the maximum specified under
3 paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by
4 all individuals and corporations under subsection (b)(1) of this section.

5 (ii) For any calendar year, if the maximum specified under
6 paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by
7 all individuals and corporations under subsection (b)(2) of this section, the maximum
8 specified under paragraph (2)(i) of this subsection shall be increased for that calendar
9 year by an amount equal to the amount by which the maximum specified under
10 paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by
11 all individuals and corporations under subsection (b)(2) of this section.

12 (5) By December 15 of the calendar year following the end of the taxable
13 year in which the Maryland qualified research and development expenses were
14 incurred, the Department shall certify to the individual or corporation the amount of
15 the research and development tax credits approved by the Department for the
16 individual or corporation under subsection (b)(1) and (2) of this section.

17 (6) To claim the approved credits allowed under this section, an
18 individual or corporation shall:

19 (i) file an amended income tax return for the taxable year in which
20 the Maryland qualified research and development expense was incurred; and

21 (ii) attach a copy of the Department's certification of the approved
22 credit amount to the amended income tax return.]

23 [(d) If the credit allowed under this section in any taxable year exceeds the
24 State income tax for that taxable year, an individual or corporation may apply the
25 excess as a credit against the State income tax for succeeding taxable years until the
26 earlier of:

27 (1) the full amount of the excess is used; or

28 (2) the expiration of the 15th taxable year after the taxable year in
29 which the Maryland qualified research and development expense was incurred.]

30 [(e) (1) In determining the amount of the credit under this section:

31 (i) all members of the same controlled group of corporations, as
32 defined under § 41(f) of the Internal Revenue Code, shall be treated as a single
33 taxpayer; and

34 (ii) the credit allowable by this section to each member shall be its
35 proportionate shares of the qualified research expenses giving rise to the credit.

36 (2) The Comptroller shall adopt regulations providing for:

1 (i) determination of the amount of the credit under this section in
 2 the case of trades or businesses, whether or not incorporated, that are under common
 3 control;

4 (ii) pass-through and allocation of the credit in the case of estates
 5 and trusts, partnerships, unincorporated trades or businesses, and S corporations;

6 (iii) adjustments in the case of acquisitions and dispositions
 7 described in § 41(f)(3) of the Internal Revenue Code; and

8 (iv) determination of the credit in the case of short taxable years.

9 (3) The regulations adopted under paragraph (2) of this subsection shall
 10 be based on principles similar to the principles applicable under § 41 of the Internal
 11 Revenue Code and regulations adopted thereunder.]

12 [(f)] (C) (1) The Department of Business and Economic Development and
 13 the Comptroller jointly shall adopt regulations to prescribe standards for determining
 14 when research or development is considered conducted in the State for purposes of
 15 determining the [credit] SUBTRACTION MODIFICATION under this section.

16 (2) In adopting regulations under this subsection, the Department and
 17 the Comptroller may consider:

18 (i) the location where services are performed;

19 (ii) the residence or business location of the person or persons
 20 performing services;

21 (iii) the location where supplies used in research and development
 22 are consumed; and

23 (iv) any other factors that the Department determines are relevant
 24 for the determination.

25 (3) THE SUBTRACTION MODIFICATION UNDER THIS SECTION DOES NOT
 26 APPLY TO ANY TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2004.

27 10-244.

28 (a) (7) "[Credit] BENEFIT allowance year" means the later of:

29 (i) the taxable year during which:

30 1. the property, construction, completion, or rehabilitation on
 31 which the credit allowed under this section is based is originally placed in service; or

32 2. a fuel cell, wind turbine, or photovoltaic module
 33 constitutes a qualifying alternate energy source and is fully operational; or

1 (ii) the earliest taxable year for which the credit may be claimed
2 under the initial [credit] BENEFIT certificate issued under subsection (k) of this
3 section.

4 (b) (1) An individual or a corporation may claim a [credit against the State
5 income tax] SUBTRACTION MODIFICATION as provided under this section for green
6 buildings and green building components.

7 [(2) If the credit allowed under this section exceeds the State income tax,
8 any unused credit may be carried forward and applied for succeeding taxable years
9 until the earlier of:

10 (i) the full amount of the credit is used; or

11 (ii) the expiration of the 10th year after the taxable year for which
12 the credit was allowed.]

13 [(3)] (2) For each of the [credits] AMOUNTS ALLOWED under
14 subsections (c) through (h) of this section, the [credit] SUBTRACTION MODIFICATION
15 may not be allowed for any taxable year unless:

16 (i) the taxpayer has obtained and filed an initial [credit] BENEFIT
17 certificate and an eligibility certificate issued under subsection (k) of this section;

18 (ii) a certificate of occupancy for the building has been issued; and

19 (iii) the property with respect to which the [credit] SUBTRACTION
20 MODIFICATION is claimed is in service during the taxable year.

21 (4) The total amount allowed in the aggregate for [all credits] THE
22 SUBTRACTION MODIFICATION under this section may not exceed the maximum set
23 forth in the initial [credit] BENEFIT certificate obtained under subsection (k) of this
24 section.

25 (5) In determining the amount of the [credits] SUBTRACTION
26 MODIFICATION under this section, a cost paid or incurred may not be the basis for
27 more than one [credit] SUBTRACTION MODIFICATION.

28 (c) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
29 owner or tenant may claim a [credit] SUBTRACTION MODIFICATION in an amount
30 equal to 8% of the allowable costs paid or incurred by the owner or tenant for the
31 construction of a green whole building or the rehabilitation of a building that is not a
32 green whole building to be a green whole building.

33 (2) The allowable costs used to determine the [credit] SUBTRACTION
34 MODIFICATION amount allowed under this subsection for a green whole building may
35 not exceed in the aggregate:

36 (i) \$120 per square foot for that portion of the building that
37 comprises the base building; and

1 (ii) \$60 per square foot for that portion of the building that
2 comprises the tenant space.

3 (d) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
4 owner may claim a credit in an amount equal to 6% of the allowable costs paid or
5 incurred by the owner for the construction of a green base building or the
6 rehabilitation of a building that is not a green base building to be a green base
7 building.

8 (2) The allowable costs used to determine the [credit] SUBTRACTION
9 MODIFICATION amount allowed under this subsection for a green base building may
10 not exceed, in the aggregate, \$120 per square foot.

11 (e) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
12 owner or tenant may claim a [credit] SUBTRACTION MODIFICATION in an amount
13 equal to 6% of the allowable costs for tenant improvements paid or incurred by the
14 owner or tenant in the construction or completion of green tenant space or the
15 rehabilitation of tenant space that is not green tenant space to be green tenant space.

16 (2) (i) The allowable costs used to determine the [credit]
17 SUBTRACTION MODIFICATION amount allowed under this subsection for green tenant
18 space may not exceed, in the aggregate, \$60 per square foot.

19 (ii) If an owner and tenant both incur allowable costs for tenant
20 improvements under this subsection and the costs exceed \$60 per square foot in the
21 aggregate, the owner has priority as to costs constituting the basis for the green
22 tenant space [credit] SUBTRACTION MODIFICATION under this subsection.

23 (3) The [credit] SUBTRACTION MODIFICATION under this subsection for
24 green tenant space may not be claimed by an owner of a building that occupies fewer
25 than 10,000 square feet of the building.

26 (4) The [credit] SUBTRACTION MODIFICATION under this subsection for
27 green tenant space may not be claimed by a tenant that occupies fewer than 5,000
28 square feet.

29 (f) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
30 owner or tenant may claim a [credit] SUBTRACTION MODIFICATION in the amount
31 determined under this subsection for the installation of a fuel cell that is a qualifying
32 alternate energy source and is installed to serve a green whole building, green base
33 building, or green tenant space.

34 (2) The amount of the [credit] SUBTRACTION MODIFICATION allowed
35 under this subsection is 30% of the sum of the capitalized costs paid or incurred by an
36 owner or tenant with respect to each fuel cell installed, including the cost of the
37 foundation or platform and the labor costs associated with installation.

38 (3) The costs used to determine the [credit] SUBTRACTION
39 MODIFICATION amount allowed under this subsection for installation of a fuel cell:

1 (i) may not exceed \$1,000 per kilowatt of installed DC rated
2 capacity of the fuel cell; and

3 (ii) shall be reduced by the amount of any federal, State, or local
4 grant:

5 1. received by the taxpayer and used for the purchase or
6 installation of the fuel cell; and

7 2. not included in the federal gross income of the taxpayer.

8 (g) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
9 owner or tenant may claim a [credit] BENEFIT in the amount determined under this
10 subsection for the installation of photovoltaic modules that constitute a qualifying
11 alternate energy source and are installed to serve a green whole building, green base
12 building, or green tenant space.

13 (2) The amount of the [credit] SUBTRACTION MODIFICATION allowed
14 under this subsection is:

15 (i) 20% of the incremental cost paid or incurred by an owner or
16 tenant for building-integrated photovoltaic modules; and

17 (ii) 25% of the cost of nonbuilding-integrated photovoltaic modules,
18 including the cost of the foundation or platform and the labor costs associated with
19 installation.

20 (3) The costs used to determine the [credit] SUBTRACTION
21 MODIFICATION amount allowed under this subsection for installation of photovoltaic
22 modules:

23 (i) may not exceed the product obtained by multiplying \$3 times
24 the number of watts included in the DC rated capacity of the photovoltaic modules;
25 and

26 (ii) shall be reduced by the amount of any federal, State, or local
27 grant:

28 1. received by the taxpayer and used for the purchase or
29 installation of the photovoltaic equipment; and

30 2. not included in the federal gross income of the taxpayer.

31 (4) A [credit] SUBTRACTION MODIFICATION may not be claimed under
32 this subsection for the installation of photovoltaic modules if the [credit under §
33 10-719] SUBTRACTION MODIFICATION UNDER § 10-241 of this subtitle is claimed
34 with respect to the photovoltaic modules.

35 (h) (1) For the taxable year that is the [credit] BENEFIT allowance year, an
36 owner or tenant may claim a [credit] SUBTRACTION MODIFICATION in the amount

1 determined under paragraph (2) of this subsection for the installation of a wind
2 turbine that is a qualifying alternate energy source and is installed to serve a green
3 whole building, green base building, or green tenant space.

4 (2) The amount of the [credit] SUBTRACTION MODIFICATION allowed
5 under this subsection is 25% of the sum of the capitalized costs paid or incurred by an
6 owner or tenant with respect to each wind turbine installed, including the cost of the
7 foundation or platform and the labor costs associated with installation.

8 (i) (1) By regulation, the Administration shall adopt standards for a
9 building to qualify as a green base building eligible for the tax [credits] BENEFITS
10 under this section that are consistent with the criteria for green base buildings set
11 forth by the United States Green Building Council or other similar criteria.

12 (2) The regulations adopted under this subsection shall provide that the
13 energy use shall be no more than 65% for new construction of a base building, or 75%
14 in the case of rehabilitation of a base building, of the energy use attributable to a
15 reference building which meets the requirements of applicable energy efficiency
16 standards.

17 (j) (1) By regulation, the Administration shall adopt standards for tenant
18 space to qualify as green tenant space eligible for the tax [credits] BENEFITS under
19 this section that are consistent with the criteria for green tenant space set forth by
20 the United States Green Building Council or other similar criteria.

21 (2) The regulations adopted under this subsection shall provide that the
22 energy use shall be no more than 65% for new construction, or 75% in the case of
23 rehabilitation, of the energy use attributable to a reference building which meets the
24 requirements of applicable energy efficiency standards.

25 (k) (1) (i) On application by a taxpayer, the Administration shall issue an
26 initial [credit] BENEFIT certificate if the taxpayer has made a showing that the
27 taxpayer is likely within a reasonable time to place in service property for which a
28 credit under this section would be allowed.

29 (ii) The initial [credit] BENEFIT certificate issued under this
30 paragraph:

31 1. shall state the earliest taxable year for which the [credit]
32 SUBTRACTION MODIFICATION may be claimed and an expiration date; and

33 2. shall apply only to property placed in service on or before
34 the expiration date.

35 (iii) To avoid unwarranted hardship, the Administration at its
36 discretion may extend the expiration date stated under an initial [credit] BENEFIT
37 certificate.

1 (iv) The initial [credit] BENEFIT certificate shall state the
 2 maximum amount of [credit] SUBTRACTION MODIFICATION allowable in the
 3 aggregate for all [credits] AMOUNTS allowed under this section.

4 (v) The Administration may not issue initial [credit] BENEFIT
 5 certificates, in the aggregate, for more than \$25,000,000 worth of [credits]
 6 SUBTRACTION MODIFICATION.

7 (vi) Except as provided in subparagraph (vii) of this paragraph,
 8 initial [credit] BENEFIT certificates shall be limited in their applicability, as follows:

| | |
|--|-------------------------|
| 9 [Credits] SUBTRACTION MODIFICATIONS in the | With respect to taxable |
| 10 aggregate may not be allowed for more than: | years beginning: |
| 11 \$1 million | 2003 |
| 12 \$2 million | 2004 |
| 13 \$3 million | 2005 |
| 14 \$4 million | 2006 |
| 15 \$5 million | 2007 |
| 16 \$4 million | 2008 |
| 17 \$3 million | 2009 |
| 18 \$2 million | 2010 |
| 19 \$1 million | 2011 |

20 (vii) As of the end of a calendar year, if certificates for [credit]
 21 SUBTRACTION MODIFICATION amounts totaling less than the amount permitted with
 22 respect to taxable years beginning in that calendar year have been issued, the
 23 maximum amount that may be allowed for taxable years beginning in the subsequent
 24 calendar year shall be increased by the amount of the preceding year's shortfall.

25 (viii) The Administration may not issue an initial [credit] BENEFIT
 26 certificate after December 31, 2011.

27 (ix) On January 1, 2004, and each year thereafter, the
 28 Administration shall provide to the Comptroller a list of all taxpayers in the prior
 29 taxable year that have been issued an initial [credit] BENEFIT certificate and shall
 30 specify for each taxpayer the earliest taxable year for which the [credit]
 31 SUBTRACTION MODIFICATION may be claimed and the maximum amount of the
 32 [credit] SUBTRACTION MODIFICATION allowable in the aggregate for all [credits]
 33 AMOUNTS allowed under this section.

34 (2) (i) For each taxable year for which a taxpayer claims a [credit]
 35 SUBTRACTION MODIFICATION under this section with respect to a green whole
 36 building, green base building, green tenant space, fuel cell, photovoltaic module, or
 37 wind turbine, the taxpayer shall obtain an eligibility certificate from an architect or
 38 professional engineer licensed to practice in this State.

39 (ii) An eligibility certificate issued under this paragraph shall
 40 consist of a certification, under the seal of the architect or engineer, that the property
 41 that is the basis for the [credit] SUBTRACTION MODIFICATION that is claimed is in
 42 service and that:

1 1. the building, base building, or tenant space with respect to
2 which the [credit] SUBTRACTION MODIFICATION is claimed is a green whole
3 building, green base building, or green tenant space; and

4 2. any fuel cell, photovoltaic module, or wind turbine with
5 respect to which the [credit] SUBTRACTION MODIFICATION is claimed constitutes a
6 qualifying alternate energy source and is fully operational.

7 (iii) The certification under subparagraph (ii) of this paragraph:

8 1. shall be made in accordance with the regulations adopted
9 by the Administration under this section specifying the standards and guidelines for
10 each credit under this section; and

11 2. shall set forth the specific findings on which the
12 certification was based.

13 (iv) The taxpayer shall file the eligibility certificate and the
14 associated initial [credit] BENEFIT certificate with the taxpayer's income tax return
15 and shall file duplicate copies of the eligibility certificate with the Administration.

16 (v) The eligibility certificate shall include:

17 1. sufficient information to identify each building or space;
18 and

19 2. any other information that the Administration or the
20 Comptroller requires by regulation.

21 (3) If the Administration has reason to believe that an architect or
22 professional engineer, in making any certification under this subsection, engaged in
23 professional misconduct, the Administration shall inform the appropriate professional
24 board of the suspected misconduct.

25 (4) (i) The Comptroller and the Administration may adopt regulations
26 necessary to carry out the provisions of this section.

27 (ii) Regulations adopted under this section shall construe the
28 provisions of this section in such a manner as to encourage the development of green
29 whole buildings, green base buildings, and green tenant space and to maintain high,
30 but commercially reasonable, standards for obtaining tax credits under this section.

31 (5) On or before April 1, 2005, the Comptroller and the Administration,
32 jointly and in consultation with the Department of the Environment, shall submit to
33 the Governor and, subject to § 2-1246 of the State Government Article, to the General
34 Assembly, a written report regarding:

35 (i) the number of certifications and taxpayers claiming the
36 [credit] SUBTRACTION MODIFICATION under this section;

1 (ii) the amount of the [credits] SUBTRACTION MODIFICATIONS
2 claimed;

3 (iii) the geographical distribution of the [credits] SUBTRACTION
4 MODIFICATIONS claimed; and

5 (iv) any other available information the Administration determines
6 to be meaningful and appropriate.

7 (6) The Comptroller shall ensure that the information is presented and
8 classified in a manner consistent with the confidentiality of tax return information.

9 10-245.

10 (a) (1) An individual may claim a [credit against the State income tax]
11 SUBTRACTION MODIFICATION as provided in this section for an easement conveyed to
12 the Maryland Environmental Trust or the Maryland Agricultural Land Preservation
13 Foundation for the purpose of preserving open space, natural resources, agriculture,
14 forest land, watersheds, significant ecosystems, viewsheds, or historic properties, if:

15 (i) the easement is perpetual; and

16 (ii) the easement is accepted and approved by the Board of Public
17 Works.

18 (2) Subject to subsection (c)(2) of this section, the [credit] SUBTRACTION
19 MODIFICATION under this section shall be allowed for the taxable year in which the
20 donation is approved by the Board of Public Works.

21 (b) (1) Except as otherwise provided in this section, the amount of the
22 [credit] SUBTRACTION MODIFICATION allowed under this section is the amount by
23 which the fair market value of the property before the conveyance of the easement
24 exceeds the fair market value of the property after the conveyance of the easement.

25 (2) The fair market value of the property before and after the conveyance
26 of the easement shall be substantiated by an appraisal prepared by a certified real
27 estate appraiser, as defined under § 16-101 of the Business Occupations and
28 Professions Article.

29 (3) The amount of the [credit] SUBTRACTION MODIFICATION shall be
30 reduced by the amount of any payment received for the easement.

31 (c) (1) For any taxable year, the [credit] SUBTRACTION MODIFICATION
32 allowed under this section may not exceed [the lesser of:

33 (i) the State income tax for that taxable year; or

34 (ii)] \$5,000.

35 (2) If the [credit] SUBTRACTION MODIFICATION otherwise allowable
36 under subsection (b) of this section exceeds the limit under paragraph (1) of this

1 subsection, an individual may apply the excess as a [credit against the State income
2 tax] SUBTRACTION MODIFICATION for succeeding taxable years until the earlier of:

3 (i) the full amount of the excess is used; or

4 (ii) the expiration of the 15th taxable year after the taxable year in
5 which the donation was approved by the Board of Public Works.

6 (3) For each taxable year, the amount carried forward to the taxable year
7 under paragraph (2) of this subsection may not exceed the limit under paragraph (1)
8 of this subsection.

9 (d) The [credit] SUBTRACTION MODIFICATION under this section may not be
10 claimed for a required dedication of open space for the purpose of fulfilling density
11 requirements to obtain a subdivision or building permit.

12 10-246.

13 (a) In this section, "aquaculture oyster float" means a device that is:

14 (1) purchased new;

15 (2) specifically designed for the purpose of growing oysters at or under
16 an individual homeowner's pier; and

17 (3) constructed to be fully buoyant and facilitate the growth of oysters for
18 the width of the pier.

19 (b) Subject to the limitations of this section, an individual may claim a [credit
20 against the State income tax] SUBTRACTION MODIFICATION in an amount equal to
21 100% of the purchase price of aquaculture oyster floats purchased during the taxable
22 year.

23 (c) [(1)] For any taxable year, the [credit] SUBTRACTION MODIFICATION
24 allowed under this section may not exceed [the lesser of:

25 (i)] \$500[; or

26 (ii) the State income tax imposed for the taxable year calculated
27 before the application of the credits allowed under this section and under §§ 10-701
28 and 10-701.1 of this subtitle but after the application of any other credit allowed
29 under this subtitle].

30 [(2)] The unused amount of the credit may not be carried over to any other
31 taxable year.]

32 10-306.

33 (B) THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES THE
34 ADDITIONS REQUIRED FOR AN INDIVIDUAL UNDER:

1 (1) § 10-205(C) OF THIS TITLE (REFORESTATION AND TIMBER STAND
2 MODIFICATION);

3 (2) § 10-205(E) OF THIS TITLE (NET OPERATING LOSS MODIFICATION);
4 AND

5 (3) § 10-205(G) OF THIS TITLE (UNLICENSED CHILD CARE FACILITY
6 OPERATING EXPENSES).

7 10-308.

8 (A-1) THE SUBTRACTION UNDER THIS SECTION INCLUDES THE SUBTRACTIONS
9 ALLOWED UNDER SUBTITLE 2, PART V OF THIS TITLE.

10 10-809.

11 If an individual is not required to file an income tax return under § 10-805, [§
12 10-806] § 10-806, or § 10-813 of this subtitle, the individual:

13 (1) is not liable for income tax; and

14 (2) may file an income tax return to claim a refund of the income tax
15 withheld or estimated income tax paid or a refund under § 10-704[,] OR § 10-707[,
16 or § 10-714] of this title.

17 10-812.

18 [(a)] A corporation exempt from income tax under § 10-104 of this title shall file
19 an income tax return if the corporation:

20 (1) has unrelated business taxable income, as defined under § 512 of the
21 Internal Revenue Code;

22 (2) is exempt from taxation under § 501(c)(2) of the Internal Revenue
23 Code; or

24 (3) is an S corporation that is incorporated or does business in the State.

25 [(b)] An organization that is exempt from taxation under § 501(c)(3) or (4) of the
26 Internal Revenue Code may file an income tax return to claim a refund under §
27 10-714 of this title.]

28 SECTION 5. AND BE IT FURTHER ENACTED, That, for any tax credit that is
29 converted to an income tax subtraction modification under this Act, this Act does not
30 affect any tax credits claimed on or after July 1, 2004, if the person claiming the
31 credits qualified for the credits before July 1, 2004.

32 SECTION 6. AND BE IT FURTHER ENACTED, That, except as otherwise
33 provided in Section 5 of this Act, this Act shall take effect July 1, 2004, and shall be
34 applicable to all taxable years beginning after December 31, 2003.